



FULFILLING TRUST RESPONSIBILITIES

UNIFIED TRUST BUDGET

The Department has responsibility for what may be the largest land trust in the world. The Indian trust today encompasses approximately 56 million acres of land – over 10 million acres belonging to individual Indians and nearly 45 million acres owned by Indian Tribes. On these lands, Interior manages over 100,000 leases for individual Indians and Tribes. Leasing, use permits, sale revenues, and interest of approximately \$226 million per year are collected for approximately 230,000 individual Indian money accounts, and about \$530 million per year is collected for about 1,400 tribal accounts per year. In addition, the trust manages approximately \$2.8 billion in tribal funds and \$400 million in individual Indian funds.

Interior faces a number of challenges in reforming the management of its Indian trust responsibilities. First, the Department has not been well structured to focus on its trust duties. Second, fractionated interests in individual Indian allotted land continue to expand exponentially with each new generation to the point where few are single pieces of property with ownership interests that are less than 0.000002 of the whole interest. Third, there are 230,000 open individual Indian money accounts, the majority of which have balances under \$100 and annual transactions of less than \$1,000. The Federal government bears the entire cost of administering the Indian trust. As a result, usual incentives found in the commercial sector for reducing or paying for the management of the trust do not apply to the Indian trust. For instance, thousands of accounts must be maintained for IIM account holders that contain less than one dollar.

The 2004 budget includes funding to address these challenges. It funds a reorganized system of delivery and administration of trust programs designed to create greater accountability to Interior's trust beneficiaries. It funds the continuation of the re-engineering of trust business processes and support functions. The 2004 budget includes substantial new money to provide a historical accounting of balances in IIM accounts as well as tribal accounts. Finally, it proposes a significant increase for the Indian land consolidation program aimed at reducing the number of individual owners in parcels of Indian lands allotted to individuals.

TRUST RESPONSIBILITIES GOAL

Fulfill Indian trust responsibility.

Trust Organization – Interior is reorganizing trust functions in the Bureau of Indian Affairs and Office of the Special Trustee for American Indians. The new organization was developed after detailed

analysis of the prior organization and a year-long consultation process with tribal leaders. In one of the most extensive consultation efforts ever undertaken by the senior management level at the Department on any issue relating to Indian Country, over 45 meetings with tribal leaders provided detailed findings and recommendations. The new organization reflects a synthesis of the views heard during the consultation process. It will meet fiduciary trust responsibilities, be more accountable at every level, and operate with people trained in the principles of fiduciary trust management.

This reorganization places a particular focus on the BIA and OST fiduciary responsibilities to Indian individual and tribal beneficiaries. For instance, land and natural resource management is located in BIA because it has demonstrated expertise in this area of the trust. The OST has been given the direction to expand its operational role in addition to its statutory oversight duties. As a result, OST will develop a regional and agency presence to ensure that trust responsibilities are met in the management of these assets and will retain the responsibility for financial trust asset management. By further developing and taking advantage of the strengths of each organization, Interior will have a more cost-effective, efficient, and successful trust management system. This reorganization dedicates more trained personnel to provide consolidated trust services, increases the emphasis on tribal contracting, and provides direct trust accountability.

The 2004 budget provides an increase of \$15.0 million to support the new organization. Together with base funding available in BIA and OST, this increase should provide the resources needed for the new organization in 2004.

Re-engineering – During 2002 and 2003, the Department has undertaken a meticulous process to

develop an accurate, current state model to document business processes. This documentation of “As-Is” business processes has given Interior a comprehensive understanding of current trust business operations; an opportunity to identify needs and places for improvement; and an understanding of variances of practice among geographic regions and their causes.

After completing the “As-Is” phase review, detailed recommendations will be developed for re-engineering business processes, where appropriate. This initial “To-Be” business process phase will take into consideration the lessons learned from the “As-Is” process. After examining existing business processes, Interior will compare these processes to the initial “To-Be” model processes to determine what needs to be changed. In particular, where existing business processes vary from region to region, efforts will be made to standardize processes. In addition, the “As-Is” and “To-Be” model processes will be compared to standard industry practices. Finally, the Department plans to integrate the final “To-Be” model processes with universal support and operational functions, and document these re-engineered business processes with appropriate policies, procedures, guidelines, and handbooks.

Historical Accounting – On January 6, 2003, the Department presented a plan to the District Court in *Cobell v. Norton* for the historical accounting for about 260,000 IIM accounts. Interior intends to conduct the historical accounting by a combination of: 1) transaction-by-transaction reconciliation methods (all transactions in certain account types); 2) reconciling all transactions over a certain dollar threshold; and 3) reconciling a statistical sample of lower dollar-value transactions. The work described in the plan is expected to take five years to complete and is preliminarily estimated to cost approximately \$335 million.

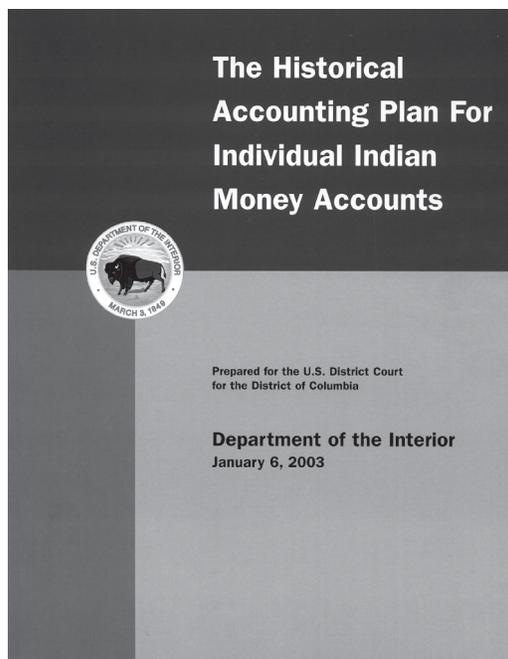
The historical accounting will address three distinct types of IIM accounts. These types are judgment and per capita IIM accounts, land-based IIM



accounts, and special deposit accounts. The reconciliation process will be appropriate for each type of account. For the approximately 42,200 judgment and per capita IIM accounts, Interior intends to reconcile 100 percent of the transactions in each account transaction history, using transaction-by-transaction methods. For the approximately 200,000 land-based IIM accounts, Interior intends to undertake the historical accounting using both transaction-by-transaction and statistical methods. All transactions that are equal to or greater than \$5,000, which represent 45 percent of the post-1985 dollar throughput of the land-based IIM accounts, will be reconciled on a transaction-by-transaction basis. Transactions that are less than \$5,000 will be reconciled through statistically valid samples. For the approximately 21,500 special deposit accounts, Interior intends to pursue a project to distribute the funds to the proper owners and to close those accounts where appropriate.

The historical accounting described in the plan covers all IIM accounts that were open during the October 25, 1994 to December 31, 2000 period.

At the end of the historical accounting process, Interior intends to be in the position to provide each IIM account holder with a historical statement of account with sufficient information so they can readily ascertain whether Interior has met its IIM trust fund accounting duties. Interior plans to provide information on how much money was credited to each account and from what sources, the amount of interest credited to each account, and the disbursements made from the account. The Department intends to provide its assessment of the accuracy of the account transaction history. This information will assist IIM account holders in ascertaining whether their money has been properly accounted for.



The Department also intends to be in the position to provide IIM account holders with information regarding land assets as of December 31, 2000. The information on assets will be prepared by the BIA land title and records offices as a separate part of the package to be provided to IIM account holders.

As of January 2003, the Office of Historical Trust Accounting had reconciled 14,492 judgment accounts with balances totaling over \$40 million and had made substantial progress on reconciling a significant number of transactions in per capita accounts. The 2004 budget of \$130.0 million for OHTA includes an increase of \$82.5 million over the 2003 budget to reconcile an additional 15,000 judgment and per capita accounts; reconcile 200,000 transactions in land-based IIM accounts; and resolve the proper ownership of the balances of 5,000 inactive special deposit accounts, distributing funds to the appropriate owners and closing these administrative accounts.

The 2004 budget includes \$30.0 million for historical accounting of tribal trust funds related to 21 lawsuits filed by 19 Tribes. The OHTA has already conducted a number of briefings for Tribes and tribal organizations. These briefings are a first step in addressing unresolved or additional accounting issues, and are a prelude to anticipated discussions and negotiations with Tribes to develop Tribe-specific work plans that are a means to resolve the outstanding accounting issues and the litigation. In 2004, OHTA expects to complete reconciliation of 75 tribal trust fund accounts and image six million pages of tribal documents.

Indian Land Consolidation – Over time, the system of allotments established by the General Allotment Act of 1887 has resulted in the fractionation of ownership of Indian land. As original allottees died, their heirs received an equal, undivided interest in the allottees' lands. In successive generations, smaller undivided interests descended to the next generation. Today, there are approximately four million owner interests in the 10 million acres of individually owned trust lands, a situation the magnitude of which makes management of trust assets extremely difficult and costly. These four million interests could expand to 11 million inter-

ests by the year 2030 unless an aggressive approach to fractionation is taken.

Addressing the rapidly increasing fractionation on Indian land is critical to improving management of trust assets. Purchase of fractional interests increases the likelihood of more productive economic use of the land, reduces record keeping and large numbers of small dollar financial transactions, and decreases the number of interests subject to probate.

The BIA has conducted a pilot fractionated interest purchase program in the Great Lakes Region.

The pilot has successfully demonstrated that large numbers of owners are willing to sell fractionated ownership interests and that a purchase program can be administered at reasonable cost. As reflected in the Administration's Program Assessment Rating Tool review, the pilot has also taught valuable lessons about the need to target purchases to maximize return of land to productive use and allow closure of IIM accounts.

The 2004 budget proposes \$21.0 million for Indian land consolidation, an increase of \$13.0 million. The BIA is designing a nationally coordinated and targeted purchase program. This program will be managed by a national program staff, but may utilize contractual arrangements with Tribes or private entities to purchase individual interests on behalf of the Department. The 2003 budget, together with carry-over, will provide approximately \$20 million for BIA to put in place the necessary infrastructure and contractual arrangements to support a major expansion of the program in 2004.

Information Technology—The High Level Implementation Plan adopted in 1998 called for development of new computer applications for BIA trust programs. It did not address underlying problems with BIA's IT program. In December 2001, a U.S. District Court ordered a shutdown of all BIA IT systems as a result of security breaches. As demonstrated by the continued shutdown of BIA's information infrastructure, IT security issues still need to be addressed.

The BIA's information infrastructure and security can be characterized as outmoded hardware and software, which do not meet lifecycle management and systems architecture principles, and do not comply with the security requirements of OMB Circular A-130 and the Government Information Security Results Act. Significant new investments are needed that require adequate IT funding.

The 2004 budget includes increases of \$29.5 million for a ground-up rebuilding of the BIA IT infrastructure to support trust, as well as non-trust programs, and \$2.5 million for Interior-wide IT security. The proposed rebuilding will fit within an enterprise architecture and includes full business cases for proposed investments.



This IT increase will allow BIA to establish systems life cycle management practices in investment management, portfolio management, business case development, configuration management, asset management, architecture development, and systems replacement for security and e-government capabilities.

The 2004 budget request consolidates the former Trust Asset and Accounting Management System and data cleanup projects into one project titled Indian Trust Systems. System design will no longer be centered on one all-encompassing system to provide title, realty, billing, and accounts receivable functions. Instead, the project will provide a series of software applications focused on the various aspects of the trust business. The project will be guided by definition of trust business processes to meet beneficiary needs and fiduciary requirements. Funding of \$24.5 million is proposed for ITS in 2004.

The 2004 budget provides \$18.9 million for continued operation of OST's Trust Fund Accounting System. Completed in 2000, TFAS is a commercial, off-the-shelf trust accounting system that provides basic receipt, accounting, investment, disbursing, and reporting functions common to commercial trust fund management operations. The TFAS records receipts collected by BIA, OST, and the Minerals Management Service and distributes payments to Tribes and individual Indians.

Records – Reform efforts to date have improved records collection and security. However, recent Interior reviews have resulted in a reassessment of the resource requirements needed to adequately administer, manage, search, retrieve, and store records. A proposed increase of \$4.5 million for 2004 will accelerate a new strategy, relying heavily on contract support, that will establish proper records retention schedules, establish and implement record keeping requirements, safeguard records, implement and maintain training programs, and meet records-retrieval needs in an effective and cost-efficient way.

An additional \$2.5 million is proposed for the records program to meet litigation support costs associated with *Cobell v. Norton* and tribal lawsuits alleging accounting discrepancies in tribal trust funds, of which 19 are now pending. Litigation support costs have been met through funding provided in a series of supplemental appropriations. There is no base funding for these costs. Currently available funds will be exhausted before the end of 2003. The increase will provide base funding for 2004 needs.

Land and Natural Resource Assets – The 56 million acres of trust lands and natural resources they contain provide the underpinnings of Interior’s trust management responsibilities. The 2004 request includes an increase of \$7.6 million to improve the management of trust land and natural resource assets.

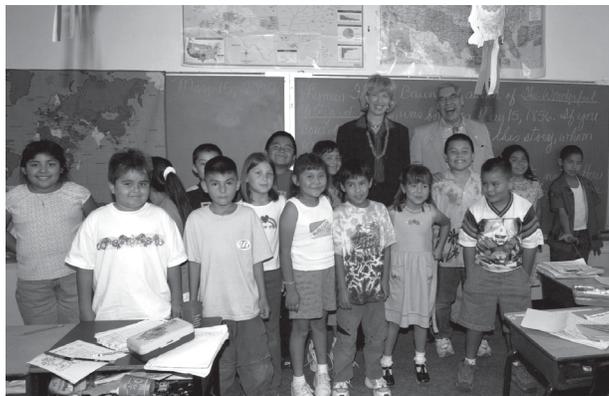
The BIA oversees the exploration and development of 1.8 million acres of actively leased oil, gas, and coal. It is estimated that approximately 15 million acres of undeveloped energy and mineral resources may exist on individual Indian and tribal lands. The 2004 request includes a \$2.0 million increase for grants to Tribes to evaluate mineral resource potential through the acquisition of exploratory data and subsequent geo-scientific interpretation. The request also includes a \$1.0 million increase to facilitate BIA compliance with Section 404 of the Energy Policy Act.

The 2004 request includes a \$2.5 million increase for forest management functions that generate trust revenue through timber harvest. An increase of \$1.5 million promotes production and facilitates sales of forestry products and \$1.0 million doubles the number of integrated resource management plan grants. At the 2004 request level, the 17 million acres of Indian forests are expected to produce 570 million board feet of timber, 10 million board feet higher than the 2003 level. The increase of \$1.0 million is included to provide 12 additional grants to Tribes for integrated resource management plans for a total of 82 plans.

The remaining \$2.1 million requested for land and natural resource assets will provide BIA with additional resources to improve its ability to meet environmental, cultural resources, and endangered species requirements on Indian lands. The requested increase will allow BIA to manage its environmental responsibilities through streamlined and properly funded NEPA compliance activities and to increase by 10 percent, the percentage of land surveyed for endangered species.

SERVING TRIBAL COMMUNITIES

Working closely with federally recognized Tribes, the Department promotes economic development and an improved quality of life for 1.5 million American Indians in communities across the country. To support the goal of advancing quality communities for Tribes, the 2004 budget proposal includes \$1.2 billion, increasing focus on continuing the President’s commitment to Indian education and promoting economic development in Indian Country.

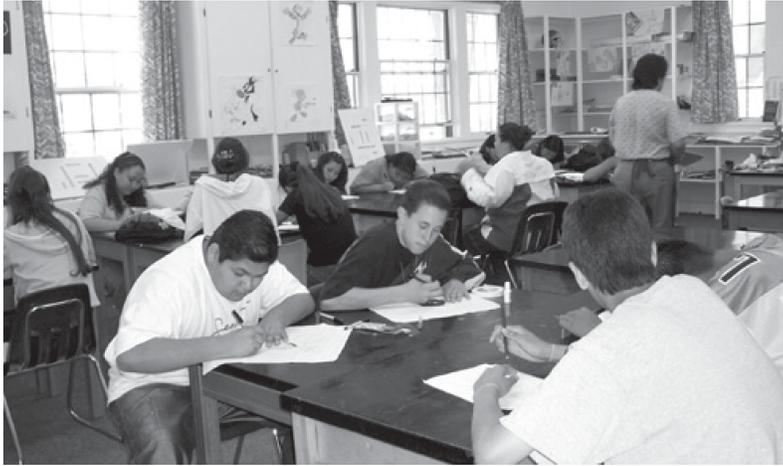


Indian Education – The BIA and the Department of Defense are the only two agencies in the Federal government that manage school systems. Almost 48,000 students in 23 States attend the 185 elementary and secondary schools that form the BIA school system. The BIA is committed

to the President’s promise to improve education in America and “Leave No Child Behind.” The BIA

directly operates one-third of these schools, while the other two-thirds are operated under contracts or grants to Tribes or other tribal organizations.

One of BIA's strategic goals is to provide quality educational opportunities from early childhood through adulthood, instilling a desire for



life-long learning to keep pace with an ever-changing world. The 2004 school operations request is \$528.5 million. This funding will help to ensure that Indian schools maintain accreditation.

In January 2002, the President signed into law the "No Child Left Behind Act of 2001," a landmark education bill that will help strengthen BIA-funded schools through several components, such as a provision that extends funding eligibility for Department of Education reading programs to the BIA school system. Flexibility and local control of schools are among the pillars of the President's education reform plan.

The budget encourages Tribes to assume management of their schools by providing \$3.0 million for initial, start-up administrative costs, and overhead and operations costs at tribally operated schools. A separate fund will be established to enable additional schools to be converted to grant status without compromising funding for current tribally operated schools.

Building Safer Schools in Indian Country

– During the 2000 presidential campaign, President Bush promised to provide safe and structurally sound schools for Indian students. Many schools have serious deficiencies. Further deterioration could



pose serious threats to the students' health and safety and may adversely impact their school environment and hinder learning. Concerns include

leaking roofs, overcrowded classrooms, asbestos, peeling lead paint, and inadequate heating, cooling, and ventilation. Dilapidated dormitories, small and poorly ventilated portable classrooms, and a lack of modern facilities, such as computer and science labs and libraries, make it difficult for Indian children to get the quality education that they need to succeed in

today's economy.

The BIA's request for education construction continues the President's initiative to repair and replace unsafe schools. The September 5, 2001 deferred maintenance backlog, estimated at \$634 million in 2001, has been reduced to an estimated \$507 million as of December 2002. Funding in 2004 is maintained at the 2003 level, \$292.6 million, which will substantially reduce the school repair and maintenance backlog and replace facilities for seven schools.

The budget includes a request to invest \$141.4 million to replace buildings at a minimum of seven schools determined to be the highest priority based on the 2001 and 2002 priority-ranking lists for education facilities construction. This funding will provide replacement schools and dormitories for Isleta Elementary School, Navajo Preparatory School, Wingate High School, Pueblo Pintado Community School, and Mescalero Apache Elementary School, all in New Mexico, as well as Turtle Mountain High School in North Dakota and Enemy Swim Day School in South Dakota. Fund-

ing for school construction reflects an increase of \$16.2 million above the 2003 level, resulting from

an internal transfer of funding from the education facilities improvement and repair program, and includes \$10.0 million for planning and design for future projects. The 2004 budget reflects a policy change to no longer provide cost estimates for individual schools until the planning documents and design for the school are developed to the point where adequate information is available to make a reasonably accurate cost estimate. This generally occurs in the year that the construction funds are obligated.

The education facilities improvement and repair program is funded at \$148.2 million. The 2004 request will fund deferred and annual maintenance needs, and major and minor repair projects to address critical health and safety concerns, non-compliance with code standards, and program deficiencies at existing education facilities. Funding at this level will continue to support the elimination of the current repair and maintenance backlog by 2006.

The BIA is making a concerted effort to improve the management of its construction programs and building maintenance operations. The BIA is the first Interior bureau to develop and use a nationwide computerized facilities management information system. The BIA has also engaged an independent engineering firm to verify deferred maintenance backlogs and cost estimates. The BIA developed and is now using a facility condition index to assist in determining when it is more cost-effective to repair rather than replace a facility. The FCI provides a baseline from which the bureau will measure and track improvements in asset conditions. The BIA will use the index to aid in budget decisions and priority setting for school maintenance, repair, and replacement.

The funding to carry out the President's commitment is beginning to make a dramatic improvement in the quality of Indian schools, providing an increasing number of students with a school environment that is safe, healthy, and conducive to educational achievement. The facilities condition index scale for BIA schools stands at .25 in 2003. A

score of .1 is the threshold for fair/good. Funding through 2004 will reduce the overall score for BIA's portfolio to .213, with an increasing number of schools moving to fair/good condition.

Economic Development – High unemployment rates on reservations are one of the greatest challenges facing Indian Country. The 2004 budget includes an increase of \$1.0 million to leverage \$20 million in additional guaranteed and insured loans.

The BIA loan program enables Indian economic enterprises on or near Indian reservations who otherwise would not have been able to get a loan, get loans from private lenders. This increase supports Indian economic development and BIA's performance goal to reduce unemployment on Indian reservations. The guar-

anteed loan program is a cost-effective way to stimulate economic development in Indian Country. The default rate on these loans has been less than one percent since 1997, and over 90 percent of the businesses funded through this program have been successful.

Resolving Land and Water Claims – The 2004 Interior budget includes \$51.4 million for payment of authorized Indian land and water claim settlements in Oklahoma, Colorado, Nevada, New Mexico, and Utah. These settlements resolve longstanding claims to water and lands by Indian Tribes and impact ongoing projects in the Bureau of Reclamation as well as BIA. They are the result of negotiations between the Tribes, Federal government, and other interested parties. While the specific provisions of each settlement differ, most contain multi-year funding commitments. Once an agreement has been reached, the Tribes depend on appropriated funds to implement the agreements, often beginning new water development projects or other economic development initiatives with those funds. Failure to provide funding for a settlement agreement can result in increased costs over time and the payment of interest penalties by the Federal government.



The 2004 request for settlements reflects a decrease of \$6.6 million from the 2003 funding level because the Federal commitment was completed in 2003 for the Rocky Boy's and Shivwits Band settlements. The BIA budget request includes \$10.0 million for one new settlement for Cherokee, Choctaw, and Chickasaw Nations land claims. The total settlement of \$40.0 million for the Cherokee, Choctaw, and Chickasaw settlement will be paid over four years. The budget includes \$9.9 million for the Santo Domingo settlement, a \$6.7 million increase for the third of three payments needed to ensure complete funding by 2004.

The budget also provides \$22.5 million for the Ute Indian rights settlement and \$8.0 million for the Colorado Ute/Animas La Plata settlement. In

addition to this settlement funding, the Colorado Ute Settlement Act amendments of 2000 provide for implementation and completion of the development of the Animas La Plata project located in southwestern Colorado and northwestern New Mexico. The Reclamation budget includes \$58.0 million for the second year of funding for the project, pursuant to the Act. The Animas La Plata project will fulfill the Federal government's trust responsibility to address the Colorado Ute Tribe's water rights; respect existing water rights held by non-Indian water users throughout the basin; furnish the Navajo Nation with a water supply; allow for additional municipal and industrial water for non-Indian communities in the Four Corners area; and provide an increased level of certainty for water managers in the San Juan Basin.